

April 8, 2020

Ms. Stacey McArthur  
D. S. Thaler & Associates, LLC  
7115 Ambassador Road  
Baltimore, MD 21244

RE: Fairways at Woodholme  
Forest Conservation Variance  
Tracking # 02-19-3061

Dear Ms. McArthur:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on March 6, 2020. If granted, the variance would authorize the removal of 74 of 147 specimen trees to construct a 147-townhouse development on a 55.9-acre site. All of the specimen trees to be removed are native species within forest. Five of the 74 trees to be removed are in poor condition. Therefore, 69 viable specimen trees would be removed. A forest retention investigation report (FRIR) was included with the application. Based on the FRIR and discussions with EPS staff, the development's concept plan was redesigned such that the 16-acre break-even point of forest retention is now exceeded by 5.9 acres, that forest is retained in a contiguous manner, and impacts to forested wetlands onsite reduced by 6,657 sf. Consequently, the FRIR included with the variance request is approved.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to develop 147 residential lots on an assemblage of parcels including a country club and golf course that will continue to operate. Therefore, denying this variance would not deprive the

petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The petitioner's plight necessitating the requested variance is largely due to the number and widespread distribution of the specimen trees onsite rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The limits of the developable area, housing type, and active open space area are all defined by a legally binding Declaration of Covenants with the community to ensure the development is compatible with the surrounding neighborhoods. The variance request is based on these covenants. Therefore, we find that the variance will not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. While a companion alternatives analysis entailing impacts to forest buffer was approved for this development, the number of specimen trees to be removed is primarily driven by prioritizing minimization of impacts to forested wetlands and the high priority forest contiguous with those wetlands ahead of specimen tree retention. Five of the 69 viable specimens to be removed are in area that would be Forest Buffer Easement. Removal of those five trees and associated forest will be mitigated through the 2:1 forest buffer planting required as a condition of the alternatives analysis approval. Therefore, we find that granting of the special variance will not adversely affect water quality; thus, this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The variance request arises from the widespread distribution of numerous specimen trees throughout the site rather than from circumstances or conditions resulting from any action taken by the petitioner. Therefore, we find that this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Forest clearing and impacts to specimen trees have been minimized inasmuch as possible through redesign of the development project to retain 5.9 acres over the break-even point in a contiguous fashion

and reduce impacts to forested wetlands for utility and road construction. Furthermore, 71 of the 140 viable specimen trees will be retained in perpetual protective easements. Therefore, we find that this criterion has been met.

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The following note must be on all plans for the project:

“A special variance to the Forest Conservation Law was approved by Baltimore County EPS on April 8, 2020 to allow removal of 69 viable specimen trees. Conditions were placed on this approval to ensure that all remaining specimen trees would be adequately protected in developing the site.”

2. A final forest conservation plan (FCP) reflecting the conditions of this variance shall be submitted to EPS and approved prior to approval of the grading and sediment control plan for this project. The final FCP must specify tree protection measures to adequately protect all specimen trees to remain.
3. All Forest Conservation Easements and Forest Buffer & Forest Conservation Easements shall be recorded along with their respective Declarations of Protective Covenants in Baltimore County Land Records prior to reduction or return of any planting security posted with EPS.
4. Removal or critical impact to any additional specimen trees will require a separate variance request, which will be reviewed on its own merits.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the developer or party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Director

DVL/ges

- c. Mr. Arthur Adler, Woodholme Country Club, Inc.  
Ms. Marian Honeczy, Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Owner/Developer

Date

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Printed Name